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Letter dated 4 February 2013 from the Permanent Representative of the Republic of Korea to the United Nations addressed to the Secretary-General

I have the honour to inform you that, under the presidency of the Republic of Korea, the Security Council will hold an open debate, on 12 February 2013, on protection of civilians in armed conflict. To help to steer the discussions on the subject, the Republic of Korea has prepared the attached concept note (see annex).

I would be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Kim Sook
Permanent Representative

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Annex to the letter dated 4 February 2013 from the Permanent Representative of the Republic of Korea to the United Nations addressed to the Secretary-General

Concept note for the Security Council open debate on the protection of civilians in armed conflict, 12 February 2013

Since the adoption of resolution 1265 (1999), the Security Council has been dealing with the issue of the protection of civilians in armed conflict, leading to the adoption of several relevant resolutions in this field, including resolutions 1296 (2000), 1674 (2006), 1738 (2006) and 1894 (2009). In particular, resolution 1894 (2009), adopted on the tenth anniversary of the Council's initial consideration of the protection of civilians, marked a significant step forward in providing guidance to ensure the effective protection of civilians on the ground.

The Security Council has also made progress in this field through such steps as presidential statements, open debates and periodic reports of the Secretary-General. It also adopted an aide-memoire on the protection of civilians in 2002, which it has since updated, with the fourth edition adopted in 2010. This has enabled the Security Council to look into various aspects of the protection of civilians and emboldened the international community's commitment to this issue.

In particular, the reports of the Secretary-General in 2009 (S/2009/277), 2010 (S/2010/579) and 2012 (S/2012/376) have contributed to the advancement of the relevant debates through the identification of five core challenges: enhancing compliance by parties to conflict with international law; enhancing compliance by non-State armed groups; enhancing protection by United Nations peacekeeping and other relevant missions; improving humanitarian access; and enhancing accountability for violations. The reports of the Secretary-General take stock of both the encouraging developments and the continuing concerns and challenges affecting civilians in contemporary armed conflicts.

The strong international normative frameworks for the protection of civilians and the important steps taken by the Security Council notwithstanding, civilians continue to account for the vast majority of casualties in armed conflict, and, as the Secretary-General pointed out in his report of 2012 (S/2012/376), the abysmal state of the protection of civilians has changed little. The situation endured by civilians in many of today's conflicts continues to warrant renewed attention and action. Normative progress during the past 14 years is of limited value if it does not translate into specific improvements in the protection of civilians on the ground.

Under the presidency of the Republic of Korea, the Minister for Foreign Affairs, Kim Sung-hwan, will chair a Security Council open debate on 12 February 2013 on the protection of civilians in armed conflict. The open debate will provide all Member States and observers with a valuable opportunity to discuss ways to enhance the protection of civilians in armed conflict. It will also offer the chance to translate advancement at the normative level into tangible progress on the ground by identifying not only the positive developments made to date, but also the challenges on the horizon. The Council will be able to renew its commitment to the protection of civilians. Participants may wish to discuss the themes below.

Bolstering accountability for violations of international humanitarian and human rights law

There has been a growing need to ensure accountability for violations of international humanitarian and human rights law, both for individual perpetrators and for parties to armed conflict. In many armed conflicts, it is to a large degree the absence of accountability and, worse still, the lack in many instances of any expectation thereof, which allow violations to thrive.

In its resolution 1894 (2009), the Security Council affirmed its strong opposition to impunity for serious violations of international humanitarian law and human rights law. It also emphasized the responsibility of States to comply with their relevant obligations to end impunity and to thoroughly investigate and prosecute persons responsible for war crimes, genocide, crimes against humanity or other serious violations of international humanitarian law in order to prevent violations, avoid their recurrence and seek sustainable peace, justice, truth and reconciliation.

The role of the Security Council can be critical in ensuring and promoting accountability. In his report of 2012, the Secretary-General urged the Council to find ways of encouraging and possibly assisting States to ensure accountability for violations of international humanitarian and human rights law at the national level. He also urged the Council to play a more proactive role in ensuring an appropriate international response, where national authorities failed to take the steps necessary to ensure accountability. He further suggested that the steps that the Council might take included requesting or mandating the establishment of international commissions of inquiry and fact-finding missions, supporting their operation, making greater use of the information resulting from their work and supporting the implementation of their recommendations, including through follow-up action such as the establishment of reparation regimes and referral to the International Criminal Court.

Enhancing the implementation of protection mandates by peacekeeping and other relevant missions

United Nations peacekeeping missions constitute one of the most significant means at the Organization's disposal to protect civilians in situations of armed conflict. Since 1999, the Security Council has tasked United Nations peacekeeping missions with protection mandates. Such protection mandates include establishing effective early warning mechanisms, ensuring the provision of adequate resources to monitor, prevent and respond to incidents, and supporting the efforts of host country authorities to implement their responsibilities in protecting civilians. In addition, United Nations missions assist in creating protective environments by supporting the establishment of effective rule of law and security institutions.

In its resolution 1894 (2009), the Council reaffirmed its practice of ensuring that mandates of United Nations peacekeeping and other relevant missions included, where appropriate and on a case-by-case basis, provisions regarding the protection of civilians. It also reaffirmed the importance of entrusting peacekeeping and other relevant missions tasked with the protection of civilians with clear, credible and achievable mandates, based on accurate and reliable information on the situation on the ground, and a realistic assessment of threats against civilians and missions, made in consultation with all relevant stakeholders.

Ensuring the effective implementation of protection mandates by peacekeeping and other missions requires the involvement of a broad range of actors. In his report of 2012, the Secretary-General, pointing out that protecting civilians from the threat of physical violence was a joint endeavour involving the host State and the peacekeeping missions deployed to support it, urged host States to work more proactively with peacekeeping missions to protect civilians. He also urged Member States contributing military and police personnel to protection-mandated missions to utilize the Department of Peacekeeping Operations/Department of Field Support protection of civilians training modules prior to deployment.

Ensuring compliance with international humanitarian and human rights law to protect civilians, including, in particular, health-care providers, women and children

Sparing civilians from the effects of hostilities requires, among other things, strict compliance by parties to armed conflict with international humanitarian law. In its resolution 1894 (2009), the Security Council reiterated its condemnation in the strongest terms of attacks in situations of armed conflict directed against civilians and other protected persons or objects as flagrant violations of international humanitarian law. It also demanded that all parties should immediately put an end to such practices.

Attacks against health-care facilities and providers are of serious concern in several conflicts, the special protection afforded under international humanitarian law to medical staff and transport, hospitals, clinics and the like notwithstanding. In his report of 2012, the Secretary-General expressed his particular concern over attacks against health-care services, which, according to a study by the International Committee of the Red Cross, are one of the biggest, most complex and least recognized humanitarian issues of our time. The Secretary-General urged the Council to systematically condemn and call for the immediate cessation of attacks against or other forms of interference with health-care facilities, transport and providers and people seeking medical treatment, as well as acts of displacement, in violation of international law.

Women and children continue to suffer extreme violence and hardship during conflict. Sexual violence, including rape, remains tragically prominent among the atrocities to which women and girls are subjected. Children continue to be killed and maimed in conflict and are frequently forced to take up arms or are used as human shields by armed forces or groups. They are often disproportionately affected by displacement and deprived of education, health care and access to justice. The Security Council needs to pay continued attention to the specific needs of women and children, taking into account their particular vulnerabilities and concerns.